

To the Honorable Council City of Norfolk, Virginia

August 25, 2015

From:

George M. Homewood, AICP, CFM, Planning Director

Subject:

Special Exception to operate a 24-Hour Convenience Store (with fuel sales) at 7530

Tidewater Drive-Sam's East, Inc.

Reviewed:

Ward/Superward: 3/7

Ronald H. Williams, Jr., Deputy City Manager

Approved:

Marcus D. Jones, City Marager

Item Number:

R-1

I. Staff Recommendation: Approval.

- II. Commission Action: By a vote of 6 to 0, the Planning Commission recommends Approval.
- III. Request: Special Exception to operate 24-Hour Convenience Store (with fuel sales).
- IV. Applicant: Sam's East, LLC
- V. Description:
 - In June of 2014 the applicant was granted a special exception to operate a gas station.
 - The applicant now proposes to add a 24-hour convenience store.
 - The number of gas pumps will also be increased from six to eight.
 - The original request was revised to eliminate alcohol sales.

Staff point of contact: Susan Pollock at 664-4765, susan.pollock@norfolk.gov

Attachments:

- Staff Report to CPC dated July 23, 2015 with attachments
- Proponents and Opponents
- Ordinance



Planning Commission Public Hearing: June 25, 2015

Executive Secretary: George M. Homewood, AICP, CFM JMN

Staff: Susan Pollock, CFM

Staff Report		Item No.:		
Address	7530 Tidewater Dr	ive		
Applicant	Sam's East, Inc.			
Request	Special Exception	Convenience Store, 24-Hour (with fuel sales)		
Property Owner	Wal-Mart Real Esta	ate Business Trust		
Site Characteristics	Site Area	0.6 acres of a 21.6 acre parcel		
	Zoning	C-3 (Retail Center)		
	Neighborhood	None		
	Character District	Suburban		
	North	C-3: Sam's Club		
	East	C-3: Wal-Mart		
Surrounding Area	South	C-2 (Corridor Commercial): Hardee's R-13 (Moderately High Density Multi-Family apartments IN-1 (Institutional): Oakwood Elementary School		
	West	C-3: Southern Shopping Center		



A. Summary of Request

- This request would allow Walmart to operate a 24-hour convenience store (with fuel sales).
- This item was continued from the June Planning Commission public hearing to allow the applicant to reconsider the sales of alcoholic beverages for off-premises consumption.
 - The applicant has eliminated that portion of the request.

B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as Commercial.

C. Zoning Analysis

- i. General
 - In June of 2014 the applicant was granted a special exception to operate a gas station.
 - The applicant now proposes to add a 24-hour convenience store.
 - The number of gas pumps will also be increased from six to eight.

ii. Parking

- The site is located in the Suburban Character District, which requires one offstreet parking space per 100 square feet of building area, and one bike space per 2,000 square feet for the use as proposed.
 - Using these ratios, the proposed 1,481 square foot convenience store would need to provide 15 parking spaces and a bike rack sufficient to accommodate at least one bicycle near the main entrance.
 - o The site complies with these requirements.

iii. Flood Zone

The property is located in the X Flood Zone, which is a low risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers (ITE) figures estimate that this new gas station will generate 581 additional vehicle trips per day.
- Based upon ITE data, the previously approved gas station use on this site would be expected to generate 2,023 weekday trips while the proposed 24-hour convenience store with gasoline sales would be expected to generate 2,604 trips on weekdays.
- Experience indicates that majority of travel to the type of use proposed would will
 not be new trips on the surrounding streets; instead, motorists already traveling the
 corridors will stop in on their way to somewhere else.
- Tidewater Drive adjacent to the site is not identified as a severely congested corridor in the current update to regional Hampton Roads Congestion Management analysis.
- The site is near frequent transit service with Hampton Roads Transit bus route 8 (Tidewater) operating directly adjacent to the site.

E. Impact on the Environment

- The redevelopment of the site will be required to be approved through the Site Plan Review process and will meet city development regulations, including landscaping and stormwater requirements.
- Specific conditions are proposed requiring a hazardous materials management plan and systems designed to prevent petroleum spills from leaving the site and entering either surface or ground water.

F. Impact on Surrounding Area/Site

- Redevelopment of a currently vacant site to accommodate a 24-hour convenience store with gas station should not have a negative effect on the surrounding area, where commercial uses are directly adjacent.
- Through the Site Plan Review Process, the City will require a lighting plan to be reviewed and approved by the Norfolk Police Department, in order to ensure the site addresses potential CPTED concerns (Crime Prevention Through Environmental Design).
 - The lighting plan will require proper installation of light shielding devices in order to ensure there is no spillover onto the adjacent properties.

G. Payment of Taxes

The owner of the property is current on all real estate taxes.

H. Civic League

Letters were sent to the Oakdale Farms, Denby Park, Cottage Road Park Civic Leagues on May 13.

I. Communication Outreach/Notification

- Legal notice was posted on the property on May 19.
- Letters were mailed to all property owners within 300 feet of the property on May 12.
- Legal notification was placed in *The Virginian-Pilot* on June 11 and 18.

J. Recommendation

Staff recommends that the special exception requests be **approved** subject to the conditions shown below:

Convenience Store, 24-Hour with Fuel Sales

(a) The hours of operation for the facility shall be 24-hours, seven days a week. No use of the facility outside of the hours of operation listed herein shall be permitted.

- (b) The site shall be developed in accordance with the conceptual plan attached hereto and marked "Exhibit A," as prepared by Bohler Engineering, dated July 20, 2015, subject to any required revisions made during the City's Site Plan Review process.
- (c) Subject to any limitation or preemption that may exist by operation of state law, a hazardous materials management plan shall be prepared and submitted to the Department of Planning detailing the methods to be employed on the property in order to minimize the infiltration of petroleum-based materials or waste associated with the dispensing of fuel and the potential for hazardous liquid absorption into groundwater or surface waters. The use allowed by this special exception shall not commence until after that plan is approved. Once approved, the plan shall be fully and continuously implemented.
- (d) The building shall meet a minimum fenestration requirement (area of ground floor façade that is transparent to a minimum depth of 5 feet into the building) of 50% for the Tidewater Drive façade, where the primary access is located.
- (e) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the *Zoning Ordinance of the City of Norfolk*, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined within the *Zoning Ordinance*.
- (f) No vehicle associated with this facility shall be parked within any sight triangle, public right-of-way or on any unimproved surface.
- (g) The dumpster shall be gated and not visible from any public right-of-way, and will be screened with masonry walls that complement the proposed building.
- (h) The facility shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (i) During all hours of operation, the facility operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (j) The property shall be kept in a clean and sanitary condition at all times.
- (k) All landscaping installed on the site premises shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.
- (I) At all times the facility shall maintain a current, active business license and shall remain current on all applicable local taxes that may become due.

Attachments:

Location Map
Zoning Map
Application
Conceptual Site Plan
Notice to the civic leagues

Proponents and Opponents

Proponents

Thomas Kleine Troutman Sanders, LLP 222 Central Park Avenue Virginia Beach, VA 23451

Opponents

None

07/23/2015

Form and Correctness Approved

Office of the City Attorney

NORFOLK, VIRGINIA

Contents Approved:

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT A CONVENIENCE STORE, 24-HOURS (WITH FUEL SALES) KNOWN AS "WAL-MART" AND "SAM'S CLUB" ON PROPERTY LOCATED AT 7530 TIDEWATER DRIVE.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to permit the operation of a Convenience Store, 24-hours (with fuel sales) known as "Wal-mart" and "Sam's Club" on property located at 7530 Tidewater Drive. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 432 feet, more or less, along the eastern line of Tidewater Drive and 784 feet, more or less, along the northern line of Central Park Drive; premises numbered 7530 Tidewater Drive.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The site shall be developed in accordance with the conceptual plan prepared by Bohler Engineering, dated May 8, 2015, attached hereto and marked as "Exhibit A," subject to any revisions required by the City to be made during the Site Plan Review Process.
- (b) The building shall be developed to reflect the general massing, materials, fenestration, and design elements for the north, south, east, and west side of the building as show in the elevations entitled "Fuel Station Kiosk," prepared by Trevor Tyson Holcomb, Architect, dated July 20, 2015, attached hereto and marked as "Exhibit B," subject to any revisions required by the City to be made during the Site Plan Review and building permit plan review processes.

- (c) Subject to any limitation or preemption that may exist by operation of state law, a hazardous materials management plan shall be prepared and submitted to the Department of Planning detailing the methods to be employed on the property in order to minimize the infiltration of petroleum-based materials or waste associated with the dispensing of fuel and the potential for hazardous liquid absorption into groundwater or surface waters. The use allowed by this special exception shall not commence until after that plan is approved. Once approved, the plan shall be fully and continuously implemented.
- (d) Not less than 50% of the building façade facing East Ocean View Avenue and not less than 25% of the building façade facing Tidewater Drive shall be maintained as transparent as defined in the Zoning Ordinance of the City of Norfolk, 1992 (as amended).
- (e) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.
- (f) All bollards on the site shall be maintained free of visible corrosion.
- (g) No vehicle shall be parked within any sight distance triangle on the property, any public right-of-way, or any unimproved surface.
- (h) On-site lighting shall be directed and shielded so as not to cast glare onto any adjacent residential properties or public right-of-way.
- (i) Dumpsters shall be gated and not visible from any public right-of-way, and will be screened with masonry walls that complement the current existing building.
- (j) All landscaping installed on the premises shall be maintained in a healthy condition at all times and

shall by replaced when necessary.

- (k) During all hours of operation the establishment operator shall be responsible for maintaining the property, those portions of public rights-of-way improved by sidewalk, and those portions of any parking lot adjacent to and used by customers of the premises regulated by the Special Exception so at to keep such areas free of litter and refuse.
- (1) The property shall be kept in a clean and sanitary condition at all times.
- (m) The establishment shall remain current on all food and beverages taxes and other local taxes which may become due while it is in operation.
- (n) The establishment shall maintain a current, active business license at all times while in operation.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of

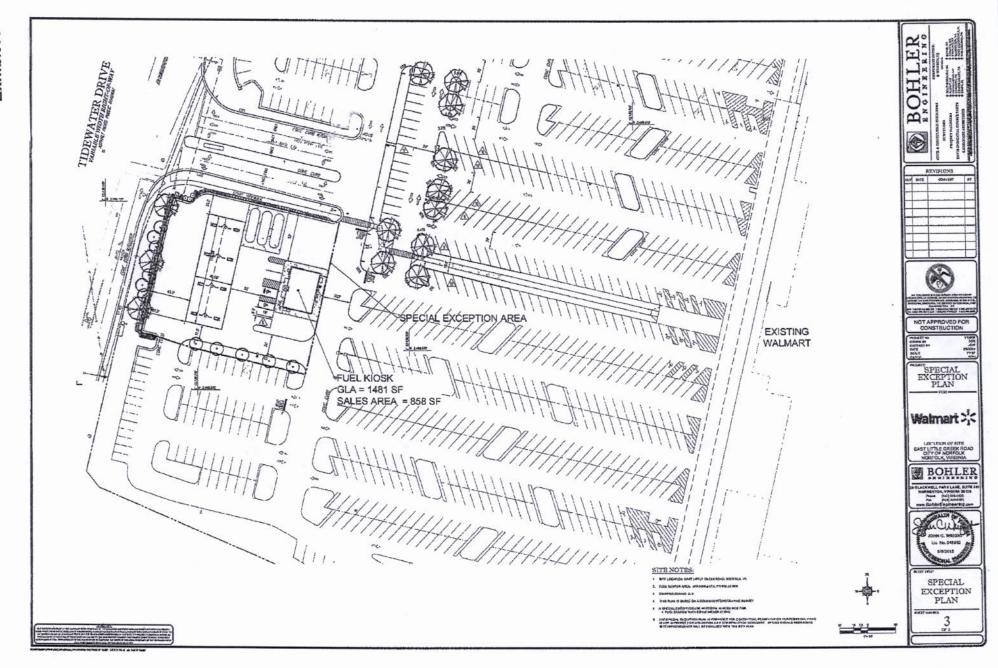
neighboring property in accordance with the applicable district regulations;

- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the City as a whole;
- (j) The proposed use and development complies with all additional imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

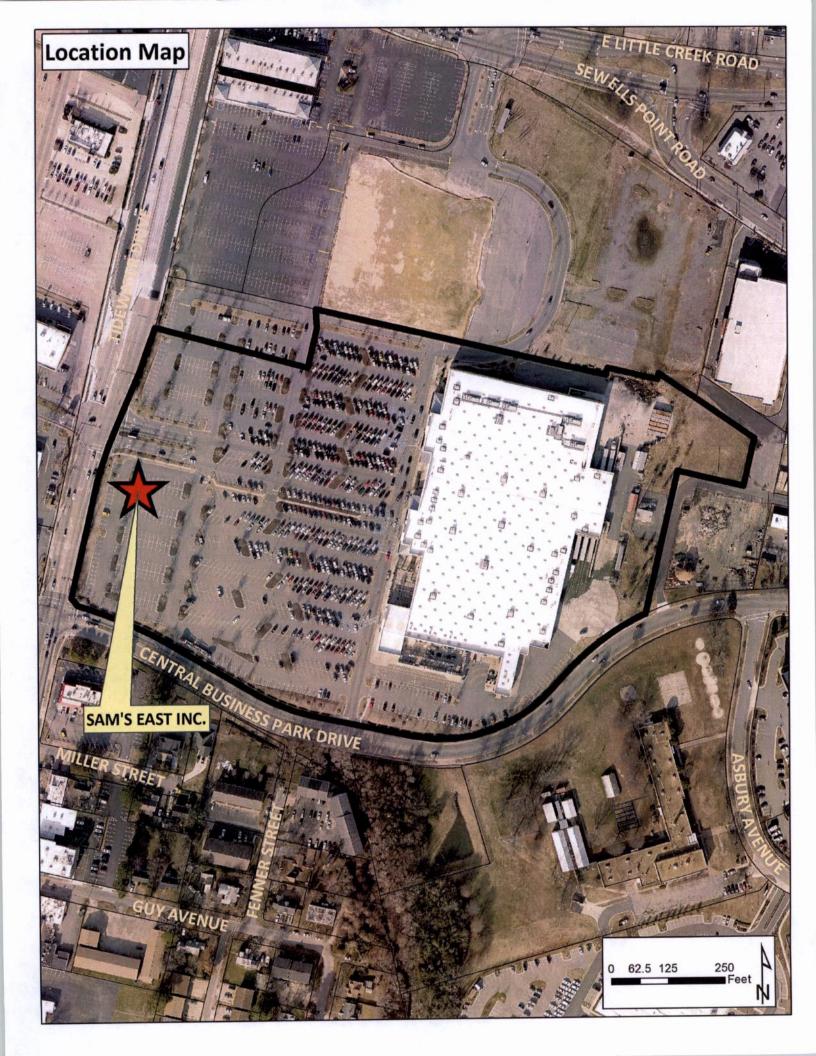
Exhibit A (1 page) Exhibit B (1 page)

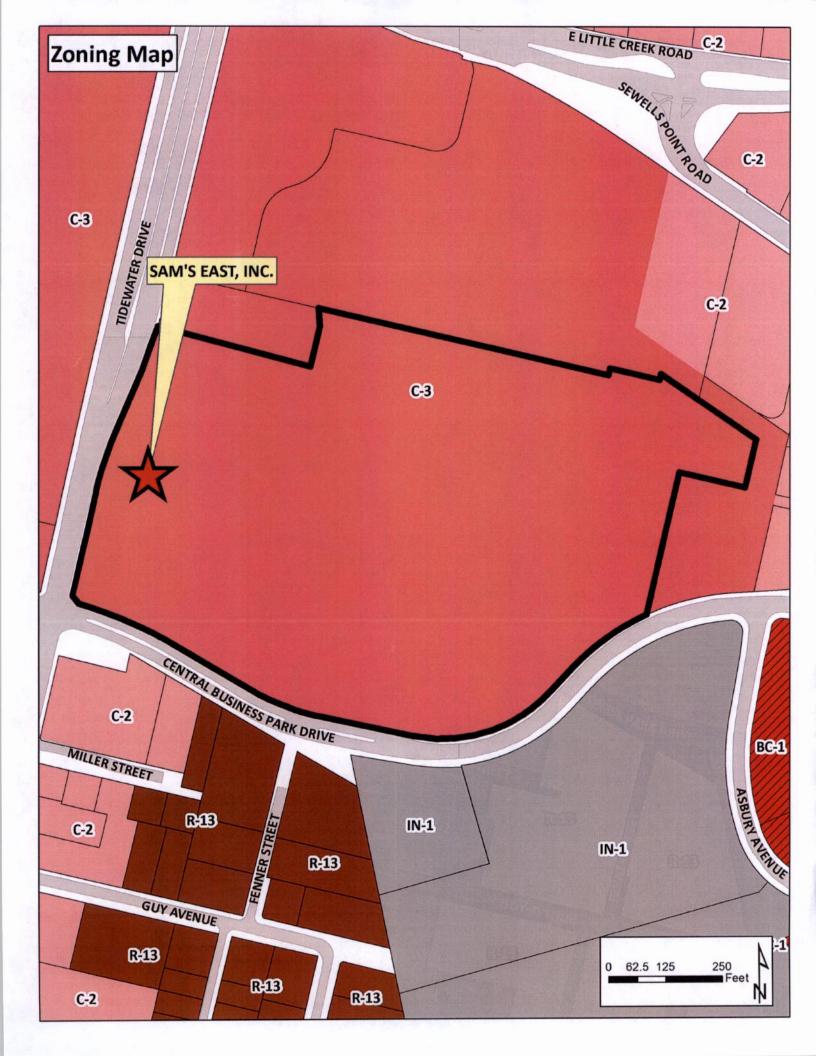














Special Exception for: Sam's Club/Wal-Mart convenience store, 24 hours, with fuel sales							
	Date of application: May 11, 2015						
DESCRIPTION O	F PROPERTY						
Property location:	(Street Number) 7530 (Street Name) Tidewater Drive						
Existing Use of Pr	operty Excess parking area in front of an existing Wal-Mart Store.						
Current Building S	quare FootageN/A						
Proposed Use							
Applicant propose	s to construct a convenience store with fuel sales.						
Proposed Square	Footage 2,339 square feet						
Proposed Hours of							
Weekday	From 24 hours a day To						
Friday	From 24 hours a day To						
Saturday	From 24 hours a day To						
Sunday	From 24 nours a day 10						
Trade Name of Bu	siness (If applicable) Wal-Mart/Sam's Club Convenience Store with gasoline sales						

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508 Norfolk, Virginia 23510 Telephone (757) 664-4752 Fax (757) 441-1569 (Revised January, 2015) Application Special Exception Page 2

	APPLICANT (If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)								
	1. Name of applicant: (Last) Sam's East, Inc. (First) (MI)								
	Mailing address of applicant (Street/P.O. Box): 2001 S.E. Tenth Street								
(City) Bentonville (State) AR (Zip Code) 72712									
	Daytime telephone number of applicant (Fax (Fax ()								
	E-mail address of applicant:								
	AUTHORIZED AGENT (if applicable) (If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)								
	2. Name of applicant: (Last) Kleine (First) Thomas (MI) C								
	Mailing address of applicant (Street/P.O. Box): 222 Central Park Ave. Suite 2000								
	(City) Virginia Beach (State) Virginia (Zip Code) 23462								
	Daytime telephone number of applicant (757) 687-7789 Fax (
	E-mail address of applicant: tom.kleine@troutmansanders.com								
(11	PROPERTY OWNER f property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)								
	3. Name of property owner: (Last) Wal-Mart Real Estate Business Trust (First) (MI)								
	Mailing address of property owner (Street/P.O. box): P.O. Box 8050, 805 Moberly Ln.								
	(City) Bentonville (State) AR (Zip Code) 72712								
	Daytime telephone number of owner (email:								

DEPARTMENT OF CITY PLANNING

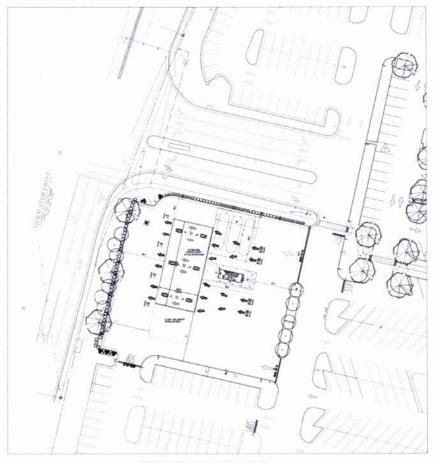
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CIVIC LEAGUE INFORMATION

Civic League contact:	None			
Date(s) contacted: N/A	4			
Ward/Super Ward info	rmation: Ward - 3; Sup	er Ward - 7		
CERTIFICATION: I hereby submit herein is true and	this complete applications accurate to the best of	ation and certify of my knowledge:	the information	contained
(P	mas C. Kleine roperty Owner or Authorized Counsel	d Agent of Signature)	RPB	(Date)
Print name: Tho	mas C- Kleine Applicant) Counsel	_Sign: TuuC	Kley S	5 18/201S
ONLY NEEDED IF APP	LICABLE:			
Print name:(A	uthorized Agent Signature)	_Sign:	Date)	_/

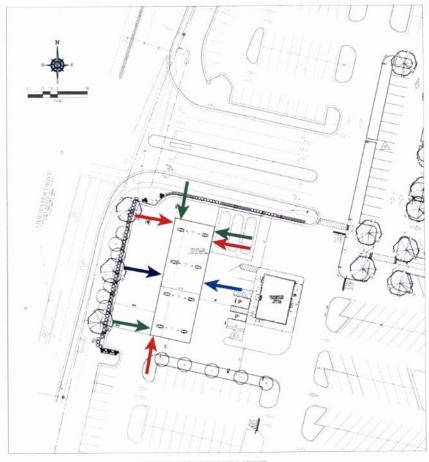
DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508 Norfolk, Virginia 23510 Telephone (757) 664-4752 Fax (757) 441-1569 (Revised January, 2015)





May 4, 2015



FUEL CENTER PROPOSED LAYOUT

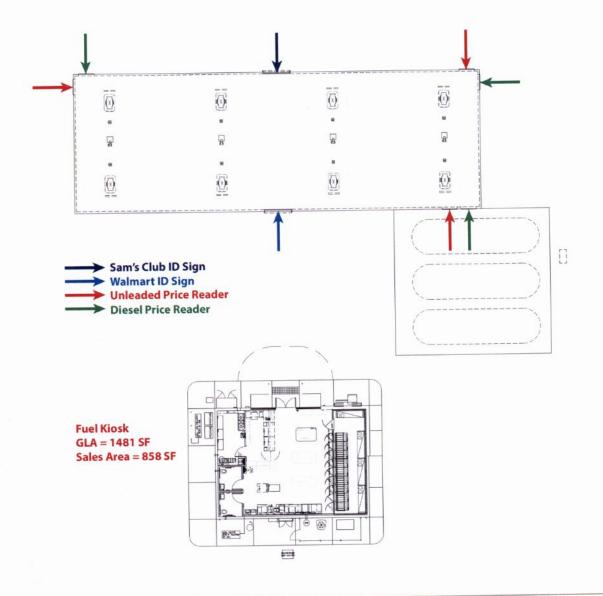






Norfolk, VA #4733

Fuel Station Plan







Norfolk, VA #4733